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May 6, 2019

VIA ECF

Honorable David T. Schultz
United States District Court
9E U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415

**Re: *Fair Isaac Corp. v. Federal Insurance Co. et al.*,
No. 16-cv-01054-WMW-DTS (D. Minn. filed April 21, 2016)**

Dear Judge Schultz:

This letter is in follow up to the parties' correspondence with the Court regarding Request for Production of Documents Nos. 89-90 (Dkt. No. 271, 275, 278) and the Court's Order relating to the same (Dkt. No. 274). The Court's April 16 text order addressed specifically Request No. 89:

TEXT-ONLY ORDER: Federal shall provide the data requested in RFP 89-90 for the applications CIS Claims and Adapt in Australia, as described in FICO's April 12, 2019 letter, forthwith. Ordered by Magistrate Judge David T. Schultz on 4/16/2019.

FICO reiterated its request for full production of documents responsive to Request Nos. 89 and 90. (Dkt. No. 275.) As stated in FICO's April 17 letter to the Court, "Defendants must produce documents in response to RFP 90." (Dkt. No. 275.)

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Thereafter, Federal took the position that FED017886 (later supplemented as FED017912 and FED017914, respectively), a single page spreadsheet, is responsive to both Request Nos. 89 and 90. (Dkt. No. 278.)

This one-page document is not responsive to Request No. 90. To date, Federal has not produced any documents in response to Request No. 90. The plain language of Request No. 90 seeks documents showing the rules used by each of Federal's applications that use or used Blaze Advisor software, whether stored in a repository, a database, or elsewhere.

Federal's January 28, 2019, written response to the document request stated that Federal would produce non-privileged documents responsive to Request No. 90.

REQUEST NO. 90: Specific to each application that uses or used Blaze Advisor® software, all documents relating to the business rules of each application.

RESPONSE: Defendants object to this request as overbroad, unduly burdensome, and not proportional to the needs of the case because it seeks "all" documents and is unlimited in time. Subject to and without waving these objections, or the general objections above, Defendants state they will produce non-privileged, responsive documents that are kept in the ordinary course of business at a mutually acceptable time agreed by the parties.

The single page document bearing production number FED017886 (later supplemented as FED017912 and FED017914, respectively) is not responsive to Request No. 90. Those charts are (although still deficient) responsive to Request No. 89, which sought:

Request No. 89: Specific to each application that uses or used Blaze Advisor® software, documents sufficient to show (a) the number of business rules in each application; (b) the type of business rules in each application, including, without limitation, underwriting, pricing, claims, renewal processing, and workflow, and (c) the number of daily and monthly batch and real-time business rule transactions for each application.

On March 12, Federal stated in an email that Federal was "working as quickly" as it could to supplement its response to Request No. 90, consistent with its earlier response to the document request itself. FICO did not move to compel production of documents responsive to Request No 90 on the April 5 deadline for non-dispositive

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motions because there was no issue to resolve. It was not until Federal's April 18 letter to the Court (Dkt. No. 278) that FICO understood Federal did not intend to produce any documents in response to Request No. 90.

As stated, Federal has not produced any documents in response to Request No. 90. FICO wrote Federal on May 2, 2019, pointing out Federal's deficiency and requesting supplementation. Federal has not provided its position to FICO at this time. Absent Federal's agreement to produce all documents responsive to Request No. 90, FICO respectfully requests an Order to compel that production.

Respectfully,

A handwritten signature in black ink, appearing to read "Heather Kliebenstein", with a stylized flourish at the end.

Heather J. Kliebenstein

cc: All Counsel of Record (via ECF)